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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,235	08/15/2005	Atsushi Kawamoto	10873.1605USWO	8754

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EXAMINER	
MOLINA, ANITA C	

ART UNIT	PAPER NUMBER
3626	

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02/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/521,235	KAWAMOTO ET AL.	
	Examiner	Art Unit	
	ANITA MOLINA	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

The following is a final action on the merits. In the amendment filed 11/05/2008, the following occurred: claims 1-8 are pending, claims 1, 7 and 8 are amended.

Response to Amendment

The amendments filed 11/05/2008 have been entered.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 2 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,277,071 to Hennessy in view of US 6,746,398 to Hervy et al, hereinafter, Hervy.

As per claim 1, Hennessy teaches a medical data warning notifying system in which a patient terminal used by a patient, a server that controls data that are exchanged between the patient terminal and a hospital terminal, and the hospital terminal used by a doctor are connected via a network, wherein the server comprises:

-**a medical data receiving portion for receiving medical data that were input at the patient terminal** (see: column 5, lines 30-35);

-a **medical data storage portion for storing the received medical data** (see: column 5, lines 35-38);

-**a judging portion for judging whether or not the received medical data include abnormal data** (see: column 5, lines 59-67);

-**a warning notifying portion for sending a warning signal to the hospital terminal** (see: column 1, lines 14-18), **if it is judged that the medical data include abnormal data** (see: column 5, lines 59-67); and

-**a message transceiver portion for receiving a message generated by the hospital terminal and sending the message to the patient terminal** (see: column 5, lines 59-67).

-**wherein the medical data includes** an amount of water drained, a body weight, **a maximum blood pressure, a minimum blood pressure, and a pulse rate** (see: column 1, lines 64-66),

-**the judging portion is provided with respective threshold values** for each of the amount of water drained, the body weight, the maximum blood pressure, the minimum blood pressure, and the pulse rate **for each patient for determining whether or not each of the medical data is abnormal** (see: column 9, lines 1-11),

-**the judging portion compares the received medical data with the respective threshold value, judging that the medical data include the abnormal data when a medical data out of the threshold value is detected** (see: column 9, lines 1-11), and

-**when the judging portion has judged that the medical data include abnormal data, the server operates the warning notifying portion so as to send the warning signal to the hospital terminal and at the same time send the medical**

data judged to be abnormal data to the hospital terminal (see: column 9, lines 9-21), **and then when the message transceiver portion has received a message from the hospital terminal, the message is sent to the patient terminal from the message transceiver portion** (see: column 9, lines 57-59).

The examiner notes that the claimed system is neither affected by the type of medical data that is used, nor by the content of the messages sent and received. Therefore, no patentable weight is given to the type of medical data and message content because it is nonfunctional and a new and unobvious functional relationship between the nonfunctional material (type of medical data and message content) and the substrate (the claimed system) is absent (see: MPEP 2601.01).

Hennessy fails to specifically teach **an amount of water drained, a body weight**. Hervy teaches a peritoneal dialysis system that uses threshold values for triggering alerts for hydration, temperature, blood pressure, drainage volume, and body weight (see: column 4, lines 1-13). It would have been obvious to one of ordinary skill in the art to include in the threshold comparison of new data of Hennessy, the peritoneal dialysis values as taught by Hervy because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Hennessy teaches the claimed medical data warning notifying system, wherein the judging portion determines that there is an abnormality if given medical data exceeds a predetermined threshold value (see: column 5, lines 59-67).

As per claims 7-8, they are rejected for the same reason set forth for claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,277,071 to Hennessy in view of US 6,746,398 to Hervy and in view of US 5,203,343 to Axe et al, hereinafter, Axe.

As per claim 3, Hennessy teaches the claimed medical data warning notifying system, wherein received records are stored by type of the medical data (see: column 6, lines 30-51). Hennessy fails to teach an average value is calculated, and the judging portion determines that there is an abnormality if the difference between the average value and the stored medical data exceeds a predetermined percentage of the average value. Axe teaches a method for treating sleep disorders by providing increased air pressure when a certain threshold level of breathing has occurred. It involves calculating a running average of the length of each breath, and comparing each new breath to a percentage of that average to determine if the patient is snoring (see: column 3, line 62—column 4, line 4). It would have been obvious to one of ordinary skill in the art to include in the threshold comparison of new data of Hennessy, the running average threshold percentage as taught by Axe because the claimed invention is

merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 4, Hennessy fails to teach the claimed medical data warning notifying system, wherein the received records are records for a predetermined period of time and the average value is an average value for a specified period of time during the predetermined period of time. Axe teaches that the microprocessor maintains values for a duration of ten breaths (a specified period of time) and the average is calculated from that specified duration of time (see: column 3, line 62—column 4, line 4). It would have been obvious to one of ordinary skill in the art to include in the threshold comparison of new data of Hennessy, the running average threshold percentage as taught by Axe for the same reasons set forth for claim 3.

5. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,277,071 to Hennessy in view of US 6,746,398 to Hervy and in view of US 6,208,974 to Campbell et al, hereinafter, Campbell.

As per claim 5, Hennessy fails to teach the claimed medical data warning notifying system, wherein the warning signal is a signal that changes a display specification of the notified message. Campbell teaches a visual alert screen (see: column 15, lines 5-14). It would have been obvious to one of ordinary skill in the art to include in the alert of Hennessy, the visual alert as taught by Campbell because the claimed invention is merely a combination of old elements, and in the combination, each

element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 6, Hennessy fails to teach the claimed medical data warning notifying system, wherein the warning signal is a signal that controls a sound output of the hospital terminal receiving the warning signal. Campbell teaches an audio alert generated on other computers in the network (see: column 15, lines 5-14). It would have been obvious to one of ordinary skill in the art to include in the alert of Hennessy, the audio alert as taught by Campbell for the same reasons set forth for claim 5.

Response to Arguments

6. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANITA MOLINA whose telephone number is (571)270-3614. The examiner can normally be reached on Monday through Friday 8am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. M./
Examiner, Art Unit 3626
02/04/2009

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626